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IMPOUNDMENT TRENDS: FISCAL YEAR 1977 THROUGH 1988

by

Scott Kevin Salley

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Impoundment Trends: Fiscal Year 1977 through 1988

by

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ABSTRACT

This thesis examines rescissions and deferrals of budget authority made by Presidents Carter and Reagan from 1977 through 1988. Trends in the use of rescissions and deferrals are analyzed to determine the purpose of and the extent to which the President uses impoundment to control the pace of spending.

The data collected for this period indicated that impoundment was used to influence policy more often than was intended by Congress. The President used impoundment to influence federal spending for more specific reasons. These include the use of impoundment to alter his predecessor's budget to establish different spending priorities and to maintain spending priorities when faced with reduced partisan political support in Congress. The President appears to have inflated the budget submission for fiscal year 1985, and then impounded that budget at increased levels upon re-election. Impoundment recommendations of national defense programs do not appear regional in their distribution.

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I. INTRODUCTION

A. IMPOUNDMENT--THE PRESIDENT AND CONGRESS

Presidential impoundment of appropriated funds is a tool, given the executive by Congress, to manage the pace of spending. The authority to impound funds was granted to the President in the Antideficiency Act. An impoundment reduces the amount of budget authority available to a department or agency for use on a particular program or project. This results in fewer dollars being spent than were appropriated by Congress. Impoundment exists because the executive branch, as it executes government programs, is in the unique position of being able to routinely effect efficiencies and savings in the spending process. Congress, as a political body, operates much more slowly than the executive branch, and cannot possibly rule on the numerous potential savings created during the day-to-day operations of the federal government. Therefore, Congress has delegated to the President the authority to spend fewer dollars than were appropriated, as long as the intent of the appropriation is fulfilled.

Conflicts arise between the President and Congress when the executive branch does not carry out the policy objectives of the legislative branch. Congress sees as its constitutionally appointed duty the function of "overseer" of public monies. It fulfills this role via the appropriations process, which is the principle vehicle for Congress to set national policy. The President, as chief executive, apparently believes his policies, as identified via the President's budget, constitute the best course of action to be followed in administration of the federal government. These conflicts occur during the struggle between the executive and legislative branches to

formulate national policy priorities. Congress accuses the President of using impoundment of appropriated funds to circumvent congressional policy objectives, while the President claims impoundment is simply a tool to provide a more efficient government.

The impoundment process is more complicated than it appears on the surface. There is a great body of literature available from studies done to better understand the effects of presidential impoundment on the budget process and policy formulation within the executive and legislative branches of government.¹ Within this literature two conflicting theories are present. Briefly, the first theory describes the use of presidential impoundment as primarily routine in nature with the interest of government efficiency the primary goal of executive departments and agencies. An opposing view is that presidential impoundments are primarily policy in nature, with the enhancement of presidential policy objectives, sometimes at the expense of congressional ones, the principle goal.

¹Among the most valuable sources on this topic are Louis Fisher, "Impoundment Of Funds: Uses and Abuses" *Buffalo Law Review*, 23 (1973) : 141-199; Arthur M. Schlesinger, Jr, "The Imperial Presidency" pp. 235-245, (Boston, Mass.: Houghton Mifflin Co, 1973); Louis Fisher, "Presidential Spending Power" pp. 147-201, (Princeton, New Jersey : Princeton University Press, 1975); James P. Pfiffner, "The President, The Budget, And Congress: Impoundment and the 1974 Budget Act" pp. 27-44, (Boulder, Colorado: Westview Press, 1979); Allen Schick, "Congress And Money" pp. 401-411, (Washington DC: The Urban Institute, 1980); Louis Fisher "Effect Of The Budget Act on Agency Operations" in Rudolph G. Penner, ed., *The Congressional Budget Process After Five Years* pp. 149-173, (Washington DC: American Enterprise Institute, 1981); Louis Fisher, "Ten Years Of The Budget Act: Still Searching for Controls" *Public Budgeting & Finance*, 5 (1985) : 24-26; Howard E. Shuman, "Politics And The Budget: The Struggle Between the President and the Congress" 2nd ed. pp. 184-214, (Englewood Cliffs, New Jersey: Prentice Hall, 1988).

B. SIGNIFICANCE AND LIMITATIONS

Understanding what Presidential impoundment of appropriated funds is and how it has been used is important to all who are involved in the budget process. Budget formulation strategies include an analysis of the many variables that come together to influence the size of the appropriation and the apportionment that is ultimately spent on the program or project. Impoundment is one of the important variables to be evaluated. Consideration of how it may be used is critical to executive and legislative decisionmakers throughout the budget process.

This thesis examines 192 impoundments made by Presidents Carter and Reagan from fiscal year 1977 through 1988. The primary focus is on defense impoundments, since the size and shape of defense spending is a principle area of disagreement between the President and Congress. Impoundments of Department of Housing and Urban Development programs were selected for analysis to provide contrast with the national defense impoundments. The purpose of the analysis is to determine if and to what extent the President used impoundment to manage the pace of spending.

Analysis of the data was limited by the method the President used to justify the impoundment recommendations in the special messages sent to Congress. Frequently, these justifications were so general as to be almost valueless in determining whether the impoundment was for purposes of efficiency or policy. The aggregation of reductions of many projects into one impoundment made regionalizing impossible in many cases.

C. ORGANIZATION OF THE STUDY

Chapter II describes the federal budget process and the history of impoundment. Changes to the impoundment process caused by The Congressional

Budget and Impoundment Control Act of 1974 are discussed. The model used in the study is presented.

Chapter III presents the analysis of the data. Possible reasons for the use of presidential impoundment are discussed.

Chapter IV is a summary of the study. Conclusions and recommendations for further research are presented.

D. THESIS QUESTIONS

This thesis explores impoundment recommendations made by two Presidents over a 12 year period from fiscal year 1977 through 1988 to determine if presidential impoundments are primarily routine or policy in nature. Impoundments examined will be primarily those involving the Department of Defense. However, Department of Housing and Urban Development impoundments will be examined to provide contrast.

Additionally, this thesis will explore the following questions.

1. Has impoundment been used to alter the predecessor's budget?
2. How has impoundment affected election year budget submissions?
3. How have changes in partisan political support in Congress affected the use of presidential impoundment?
4. Are impoundments of national defense appropriations regionally distributed?
5. To what extent has Ronald Reagan, a pro-defense President, impounded national defense programs?

The following chapter will review how the budget process establishes the relationship between executive and legislative policy formulation, and how the budget process can be affected by presidential impoundment, as well as provide an understanding of the impoundment process. The thesis model is then described and

compared to a model developed by James J. Gosling for use in a study of the use of the line item veto by Wisconsin Governors from 1975 through 1985.

II. BACKGROUND

Presidential impoundment of funds appropriated by Congress has a long and diverse history. The issue of impounding appropriated funds is at best a cloudy one, where Congress may support presidential impoundment on the one hand, and vehemently opposing it on the other. Fisher, observing this dichotomy, states that:

some actions are legitimate exercises of executive power, while others trespass directly on the legislative domain. To say that "impoundment has been used in the past" is to say nothing at all. The proper inquiry must be "What kind of impoundment?" It comes in many shapes and colors, legitimate in one case and highly suspect in another. As an omnibus term, "impoundment" tells us very little. [Ref. 1:p. 142]

What are the different types of impoundment that can bring such diverse reactions from Congress? Before addressing these, an understanding of the budgetary process is necessary to help focus on the apparent causes of congressional reaction to presidential impoundment.

A. THE BUDGET PROCESS

The budget process of the federal government has two major parts: formulation and execution. Budget formulation involves budget planning and draft-budget submission, discussion, compromise, and decisionmaking by the parties involved, while budget execution involves the process of using appropriated funds to execute the programs of government. The initial step in understanding the budget process involves recognition of the purpose of the federal budget. Bureau of the Budget (BOB) director Robert Mayo testified before the Joint Economic Committee on June 12th, 1969:

Allocating limited resources among alternative uses is the very essence of budgeting. In federal budgeting there are two levels of resource allocation and priority determination: first, between the private and the public sectors; second, within the public sector.

A detailed evaluation of programs guides us in the recommendations that the executive branch makes to the Congress for the federal sector. The final allocations are, of course, the responsibility of the executive branch and the Congress acting in concert. These allocations within the federal sector reflect political, economic, and social decisions, and therefore, measure our national priorities. [Ref. 2:pp. 63-64]

Brundage [Ref. 2:pp. 65-75] provides a sequence of stages in the budget formulation process. The process begins with the issuance of budget guidelines by the Office of Management and Budget (OMB), formerly the Bureau of the Budget, to provide departments and agencies with suggestions for the preparation of new budget requests. After the guidelines have been reviewed by the department or agency, a preliminary budget is submitted to OMB. The figures included in each agency budget are accumulated and the President is briefed on the compilation by OMB. Changes may be made in the guidelines, and the preparation of the detailed budget requests is resumed. Discussions between the department or agency and OMB follow, resulting in a formal budget request submission to OMB.

The budget requests are then thoroughly analyzed by the OMB staff. Hearings are held between each department or agency and OMB in which the agency head is allowed to state the case for his budget request. After the department and agency presentations, the OMB staff reviews the budget requests with consideration given to the information received during the hearings.

The budget requests are then adjusted by OMB to keep them in line with the President's spending priorities. Natchez and Bupp refer to this adjustment as "budget mark-up", where OMB reviews each budget, item by item, program by

program, cutting away where it can, accepting other requests as submitted, and occasionally, adding money to some project the administration looks upon with special favor.

...it is at this point that the standing of the department's chief administrator is determined. It is he who must go before the President and argue for funds that are presumably vital to his department's functions. Consequently, the degree of success that he has with the President is widely regarded as an evaluation of his administrative worth and, at the same time, a measure of the importance that agency or department has in the administration. [Ref. 3:p. 953]

The department and agency budget requests, as amended or restored, are organized into the President's annual budget document and, combined with the Budget Message, is presented to Congress.

Congress funds the budget in a three step bicameral process. The House and Senate Budget Committees, armed with the President's budget, hold hearings to gain additional information and to learn the views of their colleagues. The purpose is to draft their versions of the First Resolution. Differences between the House and Senate versions must be resolved in conference. The First Resolution is to be completed and passed by April 15th.

Wildavsky [Ref. 4:p. 147] describes the First resolution as being much like the President's budget. It resembles the President's budget in being only a recommendation, something to which action will be compared. The First Resolution provides guidance to the authorizing and appropriating committees. After its passage, Congress proceeds with the business of authorizing and appropriating funds.

Armed with the First Resolution, substantive committees go about the process of authorizing the President's budget. The authorizing committees have the first opportunity to alter the President's budget, and thereby, introduce their own

version of what the national policy objectives should be. Hearings are held and differences between House and Senate versions are worked out in conference committee. Thirteen separate authorization bills are passed by Congress and sent to the President for signature.

The appropriations committees duplicate the process in jurisdictional subcommittees, where the second major opportunity to alter the budget for policy reasons arises. The work of the subcommittees is combined and sent to the floor of each chamber. Debate on the floor can result in more changes to the appropriations. Differences between the Senate and House versions are resolved in a conference committee. Finally, the legislation is passed as the Omnibus appropriations bill, or the thirteen individual bills, and is sent to the President. When this legislation is signed the budget formulation process is complete and the execution process begins upon arrival of the new fiscal year.

The budget execution process begins when departments and agencies request apportionment of appropriated funds from OMB. The amount apportioned (by calendar quarter) is dependent on the amount appropriated by Congress as well as seasonal considerations required by the Antideficiency Act of 1906 as amended. The purpose of this act is to preclude deficiency appropriations. It is significant because, prior to being modified by the Congressional Budget and Impoundment Control Act of 1974, it provided the President with the principle legal authority to impound appropriated funds under certain circumstances. Part of the Act states:

No officer or employee of the United States shall make or authorize an expenditure from or create or authorize an obligation under any appropriation or fund in excess of the amount available therein; nor shall any such officer or employee involve the government in any contract or other obligation, for the payment of money for any purpose, in advance of appropriations made for such purpose, unless such contract or obligation is

authorized by law...In apportioning any appropriation, reserves may be established to provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriation was made available. Whenever it is determined by an officer ...to make apportionments and reapportionments that any amount so reserved will not be required to carry out the purposes of the appropriation concerned, he shall recommend the rescission of such amount....[Ref. 5]

This Act provides the executive with the authority to impound appropriated funds to effect savings and provide for contingencies during the daily administration of the government. It requires the President to submit rescission recommendations when appropriated funds are not needed to carry out the objectives of the appropriation.

B. IMPOUNDMENT HISTORY

Even before the Antideficiency Act was passed, the President had used impoundment as a tool for managerial efficiency. President Jefferson impounded appropriated funds for gunboat construction and maintenance in 1803. When Jefferson notified Congress that the funds would remain unexpended, he explained that the favorable turn of affairs on the Mississippi rendered the expenditure unnecessary. The Louisiana Purchase had apparently reduced tension in the area which reduced the immediate need for the gunboats. Neither Jefferson nor Congress saw a reason to spend the money. Therefore, Congress did not challenge the President on the issue of presidential authority to impound appropriated funds. [Ref. 6:p. 150]

The Antideficiency Act delegates to the President the authority to impound funds to effect savings or to establish reserves for contingencies. Fisher [Ref. 1:p. 142] points out that, for purposes of efficiency, the President also uses impoundment to accommodate changing events which make an expenditure

unnecessary, as well as to satisfy basic managerial responsibilities. In 1950 the House Committee on Appropriations emphasized that economy neither begins or ends in the halls of Congress. According to the Committee, an appropriation of a given amount for a particular activity constituted:

only a ceiling upon the amount which should be expended for that activity. The administrative officials responsible for administration of an activity for which appropriation is made bear the final burden for rendering all necessary service with the smallest amount possible within the ceiling figure fixed by Congress. [Ref. 1:pp.143-144]

A second type of impoundment involves statutory authority, where Congress legally provides the President authority to impound funds. This type of impoundment power has typically been given on a one time or emergency basis. Fisher points out that Congress has granted statutory authority for impoundment during times of crisis, such as the "Great Depression" and during war time [Ref. 6:p. 162]. Pfiffner agrees and adds that Congress sometimes grants statutory authority to impound funds when Congress cannot agree on a course of action. The House and Senate were hopelessly divided on the issue of Air Force procurement of aircraft in 1950. They passed the decision to the President. [Ref. 7:pp. 35-36] Wildavsky also supports this view and states that Congress might want the President to do what was necessary when it was not politic for congressmen to do so [Ref. 4:p. 135]. Thus, impounding based on tacit consent was an informal safety valve for keeping spending under control.

Impoundment for purposes of managerial efficiency or by statutory authority have been largely without conflict between the President and Congress. Policy impoundments, on the other hand, tread on the constitutional prerogative of Congress. Such impoundments appear to be the major source of trouble between the

executive and legislative branches of the federal government with respect to the establishment of spending priorities. Schlesinger [Ref. 8:pp. 238-239] points out that up until the Nixon administration, the President was able to use impoundment because he had sufficient support in Congress to do so. Previous administrations had not used impoundment as a means of terminating or curtailing programs without congressional support. Impoundments were for routine financial management with few exceptions.

For Nixon, impoundment had become not an instrument of economy but of policy. Convinced that the electorate was behind him in determination to hold down nondefense spending, persuaded that Congress was incapable of keeping public spending under control, exhilarated by the margin of his re-election in 1972, he saw the Presidency as the judge of last resort. Impoundment now became what Franklin Roosevelt had said thirty years before it should not be-- a substitute for the item veto... whatever the merits of the item veto, the Constitution authorized the President to veto only entire bills. The item veto was simply not a legal power of the Presidency. [Ref. 8:p. 239]

The Nixon theory of impoundment appears to have been a central attack on the role of Congress in the political process. After all, implied in the Constitution is the provision that Congress indicates policy priorities through the control of appropriations. "Congress, the 58th Federalist had said, held the purse; and this power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure." [Ref. 8:p. 240]

While previous administrations had kept congressional leadership informed with respect to impoundment, Nixon apparently did not. Schlesinger points out that the practice of keeping Congress informed was no guarantee of support for the impoundment, but because Nixon did not bother to assert a claim or make an

argument, congressional support for presidential policy impoundments was reduced. Nixon simply acted, or had his subordinates act, until these actions produced effective resistance within Congress. [Ref. 8:p. 241]

The ability of Congress to challenge Nixon's policy impoundments on a permanent basis was hindered by the lack of a sound congressional budget process. Over the years Congress had lost considerable control over the budgetary process. Shuman points out that not only was the budget out of control as measured by debt, deficits, and stagflation, but congressional procedures were unwieldy, inadequate, diffused, and antiquated. [Ref. 9:p. 189] Schlesinger agrees and emphasizes that many leaders in Congress believed any anti-impoundment legislation would have to be accompanied by evidence of congressional self-control in spending. Congress initiated budget reform by establishing the Joint Study Committee. This committee held hearings and submitted a report that later formed the basis for Title one through nine of the Congressional Budget and Impoundment Control Act of 1974 (which is referred to as "The Congressional Budget Act"). [Ref. 8:p. 399]

Bipartisan opposition to Nixon policy impoundments ran strong in Congress. In hearings before the Subcommittee on the Judiciary, while working on anti-impoundment legislation (S. 373), Senator Ervin draws the distinction between impoundments for purposes of managerial efficiency and those involving matters of policy:

...Reserving of appropriated funds, that is, not spending an entire appropriation, is not a new concept, and when undertaken in a lawful manner it may be quite useful in effecting economy. Various procedures have been used over the years, the most common being the reserving of funds to prevent deficiencies in a Federal program, or to effect savings in accordance with the Antideficiency Act. Freezing of funds have occurred when Congress, for some special reason such as war or economic uncertainty, passes appropriations as nothing more than ceilings for expenditures, leaving it to the

executive branch to expend part or all of the funds at its discretion. Moreover, freezing may occur as the result of a specific congressional mandate. Under any of these forms of impoundment, the executive branch is permitted, or required, to withhold funds under certain specified conditions.

Unfortunately, impoundment often occurs under circumstances where the executive branch, for reasons of its own, desires to avoid expending funds which the Congress explicitly directed to be spent for some particular purpose. It is this situation which poses a threat to our system of government and which so patently violates the separation-of-powers doctrine. [Ref 10:p. 5]

Senator Ervin goes on to condemn those impoundments that subordinate the policies of Congress. His views are supported by Senator Javits who compares Nixon's impoundments to the line item veto and argues that the issue of impoundment of appropriated funds is a "battle between Congress and the President":

...The problem is how to share between the President and Congress the awful powers of making war and spending money. We have heard a lot about the power of Congress, but we are deprived of the power of the Congress when the line item veto is employed under the guise of impoundment, and that is exactly what is happening...we are engaged in a historic struggle basically relating to the fundamental nature of representative government. We are carrying it on as to the making of war, and now we are carrying it on as to the making of appropriations, and I believe this is in the interest of our Nation's future and the constitutional balance of the three elements of our Government. [Ref. 10:pp. 22-26]

The House of Representatives worked out their own version of anti-impoundment legislation during hearings held by the Committee on Rules in 1973. The recommendations became H.R. 8480. This bill was merged with the Senate version, S. 383, and, along with recommendations made during formal legislative hearings on the bills, became Title Ten or the "Impoundment Control Act" provisions of the 1974 Act. [Ref. 9:p. 190]

Title Ten establishes procedures for congressional review and control of executive actions that prevent or delay the expenditure of funds appropriated by

Congress. Impoundment controls are predicated on a distinction between rescissions and deferrals, with different procedures applied to each category. When the President does not anticipate any current or prospective need for the funds, or when withheld funds would lapse before they are scheduled for release, he must ask Congress to rescind the appropriation. Deferrals are to be proposed when the President anticipates future but not current need for the funds. The President must notify Congress of all proposed rescissions and deferrals. He must also provide certain required information concerning each action.

In the case of rescissions, the funds must be released, that is apportioned, unless Congress passes a rescission bill within 45 days of continuous session following notification by the President. Wildavsky indicates that by requiring positive action in both houses, the more serious policy change, rescission, is made unlikely [Ref. 4:p. 143]. Deferrals, as the law was written, however, may continue in effect unless either the House or the Senate disapproves them by an impoundment resolution. This latter control, the one-house legislative veto, is now invalid as a result of the Supreme Court's decision in *INS v. Chadha* (1983). But Congress has begun to disapprove deferrals by placing specific disapproval language in the regular or supplemental appropriations bills. Since this type of disapproval is included in a bill sent to the President for signature, it is permissible under the Court's test. [Ref. 11:p. 24]

Deferral cannot extend beyond the end of the fiscal year. The Comptroller General of the United States is responsible for overseeing executive compliance with the impoundment controls. He must inform Congress if the President has failed to report an impoundment or if an action has been improperly classified. The

Comptroller General also is empowered to bring suit to enforce the impoundment controls. [Ref. 12:p. 190]

The Impoundment Control Act has not put an end to impoundments; more than \$180 Billion in rescissions and deferrals were submitted to Congress between 1975 and 1987. Nor has the act ended all controversy over impoundments, although the passions have abated and the constitutional crisis appears to be over. Impoundment control has settled into a three stage process involving presidential recommendations and reports, Comptroller General review, and congressional action, or, in most cases, inaction.

Currently, impoundment recommendations fall loosely into two types: routine and policy. Statutory impoundments no longer hold much significance because changes to the budget process, brought about by the Congressional Budget Act, have nearly eliminated them. A routine impoundment occurs when a program or project can be completed without full use of available funds or when funds cannot be used until a later date. A policy impoundment occurs when the President decides that he does not want the program or project, or wants it on a smaller scale than that authorized by Congress. [Ref. 12:pp. 402-403]

C. GOSLING MODEL

Gosling [Ref. 13:pp. 292-299] developed a model to test the extent to which use of the line item veto by Wisconsin governors involved an attempt to subordinate legislative policymaking. The study focuses on the 542 item vetoes exercised by Wisconsin governors between 1975 and 1985, where the item veto affected the receipt or budgeted expenditure of state funds. Item veto information was ascertained from state records of the Wisconsin Legislative Fiscal Bureau. Table 1

shows the attributes that were evaluated in the Gosling model and identifies those which are applicable to the thesis.

TABLE 1
CATEGORIES USED FOR EVALUATION

<u>Gosling Model</u>	<u>Thesis Model</u>
1. The Purpose of the Item Veto/Impoundment	
a. Of budgetary concern	Yes
b. To correct technical errors in budget preparation	Does not apply
c. Of public policy concern	Yes
d. Of political concern	Yes
e. To preserve established Gubernatorial or executive branch prerogatives	Does not apply
f. Of concern about legality	No
2. The Partisan Political Environment	
a. The political party of the Governor	Yes
b. The political party holding a majority of seats in the State Senate	Yes
c. The majority party's percentage of seats in the State Senate	Yes
d. The political party holding a majority of seats in the State assembly	Yes
e. The majority party's percentage of seats in the State Assembly	Yes
3. The Characteristics of the Item Vetoed/Impounded	
a. The nature of the veto	Does not apply
b. The fiscal affect of the item vetoed	Does not apply

TABLE 1 (CON'T)

c. Whether the veto affects local government	Does not apply
d. The institution contributing the item veto	Does not apply
e. Whether the veto restored the Governor's budget recommendation	Does not apply
f. Whether the veto restored the Joint Legislative Committee on Finance version	Does not apply
g. The cumulative fiscal effect of all vetoes of state revenues and budgeted expenditures for each biennial budget session	Does not apply

The categories Gosling used to evaluate the attributes of the individual line item vetoes were selected to specifically determine the basis of the justification for the veto. Some of the justifications include: judgements of what the state could afford to spend, whether the veto prevented excessive government intrusion, and if the veto prevented inappropriate political advantage. [Ref. 13:pp. 294-295] The thesis model evaluates the attributes of impoundment more generally. These evaluations consist of categorizing impoundments for the purposes of efficiency, policy, or to comply with statutory provisions.

Gosling evaluated the partisan political environment and its affect on the likelihood of conflict between the Governor and the legislature over the executive budget and legislature's version of the spending bill [Ref. 13:p. 295]. The thesis model uses partisan political support changes to determine if the President increases policy impoundments to maintain spending priorities when faced with reduced partisan political support in Congress.

Gosling characterizes the item vetoes to determine the fiscal effect, if any, of each item veto. Wisconsin state law allows the Governor to alter wording within the law, or to line through a particular budget number, but not to lower or to

raise it. Therefore, to include those item vetoes that do not involve cost or budgetary impact, the Gosling model must categorize them using the set of characteristics listed in Table 1. Because cost or budgetary impact is consistently present in impoundment actions, characterization does not apply to the study of presidential impoundment.

The Gosling study introduced three possible hypotheses regarding the use of the Line item veto:

1. (H1) The line item veto has been used primarily as a tool of fiscal restraint.
2. (H2) The line item veto has been used primarily as a tool of policymaking.
3. (H3) The line item veto has been used primarily as a tool of partisan politics.

The individual item vetoes are reviewed and categorized, against a biennial timetable, to determine the extent to which the above mentioned hypotheses are accurate. [Ref 13:pp. 292-295]

Gosling concluded that the line item veto was not used primarily as a tool of fiscal restraint. Only 14 percent of the line item vetoes directly affected appropriations. He found that the line item veto had been used in Wisconsin more as a tool of policy than as one of fiscal restraint. Of the many justifications supporting recommended vetoes, 59.5 percent involved policy considerations, whereas only 17.7 percent involved concern over cost or budgetary impact. On the partisanship issue, item vetoes were likely to override the legislative policy ten percent more often when the Governor's political party did not hold a majority of seats in the legislature. [Ref. 13:pp. 295-297]

D. THESIS MODEL

The thesis model is an adaptation of the Gosling model, using impoundment recommendation information obtained from OMB to test the following hypotheses:

1. (H1) Impoundment has been used primarily as a tool of routine managerial efficiency.
2. (H2) Impoundment has been used primarily as a tool to alter congressional policymaking.

The individual impoundments are categorized to determine the extent to which they are for the purposes of efficiency, policy, or to comply with statutory provisions. Specific information about the impoundment is reviewed to determine which category is appropriate. Key to this determination is the review of the justification for impoundment provided by the President in the special message sent to Congress.

This study is similar to the Gosling study in that it attempts to classify actions of the executive as he deals politically with matters of fiscal importance between the executive and legislative branches of government. The nature of the testing in both studies involves the review of archival data to determine the extent that these actions have been for the purposes of efficiency or policymaking and if partisan politics played a significant role.

One significant difference between the studies involves the relationship to budgetary process phase. The line item veto is used during the budget formulation stage, while impoundment occurs during the budget execution phase in the budgetary process.

E. BACKGROUND SUMMARY

After review of the federal budget process, it is apparent the Congress carefully guards its constitutional prerogative to control the federal purse. Control of the

appropriations process is the principle vehicle used by Congress to inject its prioritized policy objectives into the operations of government. The President, according to Congress, is more interested in his policy objectives and, therefore, is likely to circumvent the wishes of Congress in the execution of his office.

In the following chapter, historical data on impoundment recommendations, made by Presidents Carter and Reagan, of Department of Defense (DoD) and Department of Housing and Urban Development (HUD), is presented. By analyzing these impoundments, it may be easier to see how the appropriations process is affected by these recommendations.

III. DATA ANALYSIS

A. DEFENSE IMPOUNDMENTS AND PRESIDENT REAGAN

President Reagan has doubled the defense budget, in current dollar terms, in his eight years in the White House. The defense budget has grown more than 49 percent, in constant dollars, since 1980. He has clearly been a pro-defense President with respect to the defense budget. Therefore, it might be surprising to learn that President Reagan has impounded defense appropriations at all.

In his eight years as President, he has made 89 impoundment recommendations totalling \$7.4 billion. He has not attempted to cancel much defense spending; rescissions recommended during his two terms total \$336.5 million. Most of the Reagan impoundment recommendations have been deferrals, totalling \$7.1 billion. Many of these deferrals have been designed to stretch out defense spending, mostly in military construction and Shipbuilding and Conversion, Navy accounts. When the national defense budget began to decrease, in constant dollar terms, President Reagan limited his impoundment recommendations almost exclusively to managerial efficiency actions.

President Reagan made impoundment recommendations of national defense programs for many of the same reasons as his predecessors. Several of these reasons are detailed in this thesis. Some may find it striking that he made any impoundment recommendations of national defense programs. The data indicates that impoundment control is a tool to help the President manage his federal budget priorities, pro-defense or not.

B. METHODOLOGY

To test the thesis hypotheses:

1. (H1) Impoundment has been used primarily as a tool of routine managerial efficiency.
2. (H2) Impoundment has been used primarily as a tool to alter congressional policymaking.

Data was analyzed on rescission and deferral recommendations of national defense and Housing and Urban Development programs made by the President from fiscal year 1977 through 1988. These programs were selected because they include projects supported by different constituencies. National defense is supported by more conservative interests, while HUD programs are supported by those less conservative.

Data for the study was obtained primarily from an archival review of the special messages submitted by the Office of Management and Budget, at the direction of the President. The special messages are printed in the Federal Register as required by the Impoundment Control Act.

Each special message contains a justification section where the President describes the purpose of the rescission or deferral. Review of these justifications provide information used to determine if the rescission or deferral recommendation is made for purposes of efficiency or policy.

An example of a rescission recommendation justification made for the purpose of affecting policy is Rescission R-82-1:

Justification: The Congress appropriated 1981 funds for advance procurement of 180 F-16 aircraft in 1982. This rescission proposal of \$65.7 million would support procurement of 120 F-16 aircraft in 1982, as requested by the Administration. [Ref. 14:p. 54263]

In this example, Congress had previously approved the purchase of 180 F-16 aircraft during 1982. The President apparently made a policy decision to reduce F-16 procurement to 120 aircraft in 1982. This is a clear example of presidential use of rescission for the purpose of altering congressional policymaking.

An example of a rescission recommendation justification made for purposes of efficiency is Rescission R-77-10:

Justification: Funds provided to the Other Procurement, Air Force account have been used to terminate the Advanced Logistics System (ALS). The Department of Defense has determined--after the settlement of contracts for the termination of the ALS--that there is \$14.4 million remaining which it does not plan to obligate. Since there is no intention to obligate these funds and they will lapse under present plans, they are being proposed for rescission. The House Appropriations Committee, in House Report (94-5) (pages 163-165), concurs in the view that any funds which remain after termination costs have been met should be permitted to lapse. [Ref 15:p. 4352]

It is clear the \$14.4 million is not needed to terminate this program. Therefore, it is appropriate to rescind this budget authority.

An example of a deferral recommendation justification made for the purpose of affecting policy is Deferral D-80-51:

Justification: This deferral of \$1 million would allow for the consistent transition from FY 1980 to the amended FY 1981 program as currently proposed. This deferral applies to the Interim Waste Operations program, and is part of the Administration's effort to combat inflation by reducing--where feasible--lower priority programs in 1980 and is complementary to the effort to balance the 1981 Budget. [Ref 16:p. 27696]

In this example, President Carter attempted to push 1980 spending into 1981, thereby reducing outlays in 1980. Congress had decided this program was necessary in 1980 and appropriated the funds. This deferral does not involve

efficiency savings, rather, it involves an attempt to manage the deficit through deferral.

An example of a deferral recommendation justification made for the purpose of efficiency is Deferral D-83-23:

Justification: The amounts in the listed five-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies. These funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and or coordination. [Ref. 17:p. 55620]

This is an example of the President recommending deferral to set aside reserves for contingencies, one of the congressionally approved uses of impoundment.

In all, 132 rescissions or deferrals of national defense programs and 60 rescissions or deferrals of HUD programs were reviewed and categorized in this manner.

C. EFFICIENCY OR POLICY?

Congress separated impoundment into two distinct types, rescission or deferral, when it passed the Congressional Budget and Impoundment Control Act of 1974. Rescission was to be used to cancel unnecessary budget authority and deferral was to be used to delay spending until it could be done more efficiently. Fisher suggests that rescission was the principle impoundment action the President would use to substitute executive spending priorities for those enacted by Congress. The deferral mechanism would be used primarily for efficiency impoundments. [Ref 18: pp. 149-154]

Table 2 shows the distribution of rescissions and deferrals for national defense and HUD programs from fiscal year 1977 through 1988. Special message justifications were reviewed and the various rescissions and deferrals were categorized as either policy or efficiency. The statutory deferrals of HUD programs are included for continuity, but, as discussed in chapter two, have little usefulness in the analysis. The distribution of impoundments in Table 2 support the idea that rescission is more likely to be used for policy reasons. However, deferral does not appear to be used primarily for purposes of efficiency. Deferrals of these two programs were made for policy reasons 44 percent of the time. This indicates that the clear difference between rescission and deferral, as intended by Congress, does not necessarily exist in practice. Therefore, since it is reasonable to lump rescission and deferral together, and refer to them as impoundment, this will be assumed for the majority of the analysis. Additionally, a more detailed examination of the data can be made by considering the programs separately, in two year increments, and including an analysis of the relative dollar values of the impoundments.

Congress passed Title Ten of the Congressional Budget and Impoundment Control Act of 1974, anticipating that the practice of policy impoundments on the part of the President would be greatly reduced. During floor action on the Impoundment Control Act of 1974, Senator Ervin, as floor manager, said he expected that there would be no more than "a few dozen policy impoundment actions a year." [Ref. 19: p. 11238]

However, the President has apparently been unwilling to limit impoundment to issues of managerial efficiency. Table 3 shows the distribution of Department of Defense, military and civil, and Department of Energy defense related

impoundments during the period of study. Impoundment data is presented in an annual format, in both numerical and dollar value terms, having been categorized in the initial analysis. Percentages for each element are determined by dividing the efficiency and policy impoundment values for each two year segment by the sum of the two. A review of these impoundment recommendations demonstrate the extent to which the President attempted to alter congressional policymaking over these programs.

TABLE 2
RESCISSIONS AND DEFERRALS OF DEFENSE AND HUD PROGRAMS
FY 1977 THROUGH 1988

	<u>Rescissions</u>	<u>Deferrals</u>
National Defense Programs		
Efficiency	8	61
Policy	20	43
Housing and Urban Development Programs		
Efficiency	8	3
Policy	22	16
Statutory	<u>0</u>	<u>11</u>
Total	58	134

(Source: Office of Management and Budget; Data Printed in the Federal Register)

TABLE 3

NATIONAL DEFENSE CATEGORIZED IMPOUNDMENTS (ROUNDED TO THE NEAREST \$MILLION)

<u>PERIOD</u>	<u>EFFICIENCY IMPOUNDMENTS</u>	<u>POLICY IMPOUNDMENTS</u>
1977	7 (37%) \$648 (32%)	12 (63%) \$1392 (68%)
1978	4 (67%) \$161 (15%)	2 (33%) \$899 (85%)
1979	4 (67%) \$62 (08%)	2 (33%) \$675 (92%)
1980	4 (33%) \$32 (03%)	8 (67%) \$1176 (97%)
1981	6 (32%) \$42 (03%)	13 (68%) \$1562 (97%)
1982	6 (43%) \$68 (05%)	8 (57%) \$1378 (95%)
1983	4 (57%) \$454 (15%)	3 (43%) \$2630 (85%)
1984	8 (89%) \$353 (82%)	1 (11%) \$75 (18%)
1985	5 (42%) \$366 (93%)	7 (58%) \$29 (07%)
1986	6 (67%) \$81 (42%)	3 (33%) \$114 (58%)
1987	8 (67%) \$94 (40%)	4 (33%) \$142 (60%)
1988	7 (100%) \$2 (100%)	0 0

Percentages indicate the proportion of impoundments in that category, for that period.

(Source: Office of Management and Budget; Data Printed in the Federal Register)

Policy impoundment recommendations made by President Carter numbered 24 of 43 or 56 percent for defense programs. National defense impoundment recommendations made during President Reagan's two terms totalled 39 of 89, or 44 percent. Cumulative totals for both Presidents show DOD policy impoundment recommendations accounted for 63 of 132 impoundment actions, or 48 percent, significantly more than Congress anticipated.

The Department of Housing and Urban Development, because it serves a different constituency, was selected to provide contrast to the Department of Defense impoundments. Review of the HUD impoundment recommendations show additional support for the idea that the President is inclined to use impoundment in the interest of executive policymaking.

Table 4 shows the distribution of the Department of Housing and Urban Development impoundment recommendations for fiscal years 1977 through 1988.² This table was constructed in the same manner as Table 3. Policy impoundment recommendations of HUD programs made by President Carter totalled three of five, or 60 percent. It is not surprising President Carter used impoundment of HUD appropriations so sparingly, given the constituency he served and the strong support his political party held for HUD programs. President Reagan, on the other hand, would be much more likely to make impoundment recommendations of HUD

²A review of the special messages concerning the statutory impoundment recommendations made by President Reagan in 1982 stated that the President wanted to retain budget alternatives while operating under the Continuing Resolution (P.L. 97-51). Once Congress passed the Omnibus Appropriations Act for fiscal year 1982, OMB apportioned all these funds. Therefore, these recommendations were not classified as managerial efficiency or policy.

TABLE 4
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
CATEGORIZED IMPOUNDMENTS (ROUNDED TO THE NEAREST
\$MILLIONS)

<u>PERIOD</u>	<u>EFFICIENCY IMPOUNDMENTS</u>	<u>POLICY IMPOUNDMENTS</u>	<u>STATUTORY IMPOUNDMENTS</u>
1977	0 0	0 0	0 0
1978	0 0	0 0	0 0
1979	2 (100%) \$608 (100%)	0 0	0 0
1980	0 0	3 (100%) \$201 (100%)	0 0
1981	4 (33%) \$116 (02%)	8 (67%) \$5429 (98%)	0 0
1982	0 0	2 (15%) \$4120 (93%)	11 (85%) \$305 (07%)
1983	4 (67%) \$448 (12%)	2 (33%) \$3315 (88%)	0 0
1984	1 (100%) \$331 (100%)	0 0	0 0
1985	0 0	2 (100%) \$260 (100%)	0 0
1986	0 0	14 (100%) \$13319 (100%)	0 0
1987	0 0	5 (100%) \$1109 (100%)	0 0
1988	0 0	0 0	0 0

Percentages indicate the proportion of impoundments in that category, for that period.

(Source: Office of Management and Budget; Data Printed in the Federal Register)

programs for policy reasons, given the reduced political support of his party for these programs. Not surprisingly then, of 54 HUD program impoundment recommendations made by President Reagan, 37, or 69 percent, were for policy reasons.

The number of impoundment recommendations made for policy reasons is one legitimate measure of the extent the President uses impoundment control to alter congressional policymaking through the appropriations process. Another method used to determine this is to compare the relative dollar values of the impoundment recommendations made for purposes of managerial efficiency or policy. Figure 1 shows the distribution of impoundment recommendation dollar values, efficiency versus policy, for Department of Defense and defense related programs. In each of the first seven years of the study period, policy impoundment recommendation dollar values exceeded managerial efficiency impoundment recommendation dollar values by at least a two to one margin. In 1983 for example, policy impoundment recommendations involved over \$2.6 billion compared to \$454 million for purposes of managerial efficiency, a margin of greater than five to one.

In 1984 policy impoundment recommendation dollar values of national defense programs were below those for managerial efficiency for the first time during the study period. Impoundment recommendations for national defense programs, whether for efficiency or policy, remained very low, in dollar terms, during the last five years of the study period. Policy impoundment recommendations for national defense, measured in dollar terms, dropped so significantly in 1984 because the Reagan administration discontinued impoundment of the Shipbuilding and Conversion, Navy appropriation. By 1983, impoundment of this account reached a high of \$2.4 Billion, or 91 percent of the policy impoundment dollars for

that year. OMB subsequently released all of these funds for obligation by the Department of Defense.

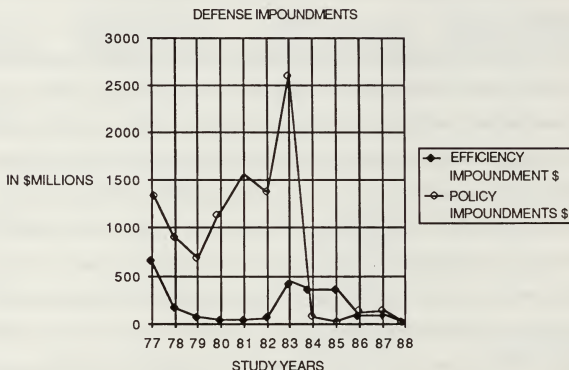


Figure 1. National Defense Impoundments in Current Dollars (Rounded to the Nearest \$Million)

By 1986 budget authority for national defense began to decline in terms of constant dollars. President Reagan, a strong supporter of defense programs, was apparently unwilling to challenge Congress on policy issues with respect to defense program spending during periods of declining budget authority.

Table 5 shows the amount of budget authority for national defense programs in current year dollars [Ref. 20:pp. 96-97]. Budget authority is used as the point of reference in this table because impoundments are made in terms of budget authority, not outlays. Constant dollar values are calculated by dividing current dollars by the Gross National Product (GNP) deflator [Ref. 21:p. 249] for that year.

The percent change is determined by dividing constant dollar values in a given year by the constant dollar value of the previous year.

TABLE 5

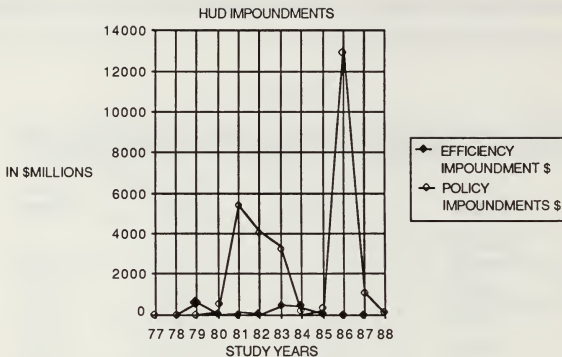
**BUDGET AUTHORITY (BA), CURRENT AND CONSTANT DOLLARS,
NATIONAL DEFENSE (ROUNDED TO THE NEAREST \$MILLION)**

<u>Year</u>	<u>BA, Current Dollars</u>	<u>GNP Deflator</u>	<u>BA, Constant Dollars</u>	<u>Percent Change</u>
1977	110,150	63.4	173,738	-
1978	117,227	67.8	172,901	-0.5%
1979	126,467	74.2	170,440	-1.4%
1980	143,859	83.4	172,492	+1.2%
1981	180,001	92.9	193,758	+12.3%
1982	216,547	100.0	216,547	+11.8%
1983	245,043	103.6	236,528	+9.2%
1984	265,160	107.2	247,351	+4.6%
1985	294,656	109.5	269,092	+8.8%
1986	289,146	110.8	260,962	-3.0%
1987	287,427	111.7	257,320	-1.4%
1988 ¹	291,416	113.3	257,207	-0.1%

¹Estimate

Constant dollar budget authority declined in 1986 by three percent. This developed into a trend that continued in fiscal years 1987 and 1988, although the decline was less severe during the latter years.

Department of Housing and Urban Development impoundment recommendations in dollar terms support the argument that the dollar value of policy recommendations exceeds the value of efficiency recommendations. Figure 2 shows the distribution of impoundment recommendation dollar values, efficiency versus policy, for HUD programs.



**Figure 2. Department of Housing and Urban Development Impoundments
(Rounded to the Nearest \$Million)**

During the period of the study, the President made impoundment recommendations of HUD programs in nine of the twelve years. Policy impoundment recommendation dollar values exceeded efficiency dollar values seven of those nine years, usually by more than a ten to one ratio. In 1986 for example, the dollar value of policy impoundment recommendations was in excess of \$13 billion.

Impoundment of appropriated funds can be classified into three general categories: managerial efficiency, policy, and statutory. Reasons for making impoundment recommendations are more specific. One such reason involves impoundment as a tool to alter the federal budget submitted by the predecessor of the newly elected President.

D. IMPOUNDING PREDECESSOR BUDGETS

One of the first tasks facing a new President is to submit amendments to his predecessor's budget to Congress, in an effort to convey a new set of policy and programmatic priorities. When the new President assumes office, the fiscal year is already in the second quarter. The process of submitting and justifying a supplemental appropriations bill to establish revised spending priorities can be time consuming. Impoundment could be used to alter the predecessor's budget in the interim. One method to determine if impoundment is used to alter the predecessor's budget is to review impoundment recommendations made by the new President and compare these to impoundment recommendations made on the budget in the final year of the previous administration. Table 6 shows the distribution of impoundment recommendations made during the period of the study. This data was gathered by reviewing cumulative summaries of rescissions and deferrals provided by the Office of Management and Budget, printed in the Federal Register throughout the period of the study.

Each time a new President has been elected, his impoundment recommendations during the first year in office have exceeded recommendations made by his predecessor the previous year. President Carter made 84 impoundment recommendations during fiscal year 1977, his first year in office, compared to 72 made by President Ford the previous year. Though the numerical difference is relatively small, the significance is increased when it is considered that Ford made 480 impoundment recommendations in less than three years in office compared to only 378 made by Carter in four full years as President [Ref. 18:p. 151]. In fiscal year 1981 President Reagan made 293 impoundment recommendations, which is more than two times as many as the 132 made by President Carter in 1980. The data

indicates that the new President is likely to use impoundment to alter the federal budget submitted by his predecessor in an effort to establish his revised list of priorities.

TABLE 6

**IMPOUNDMENT RECOMMENDATIONS, ALL PROGRAMS, FISCAL YEAR
1976-1988**

<u>YEAR</u>	<u>RESCISSIONS RECOMMENDED</u>	<u>DEFERRALS RECOMMENDED</u>	<u>TOTAL</u>
1976	20	52	72
1977	20	64	84
1978	20	66	86
1979	11	65	76
1980	59	73	132
1981	166	127	293
1982	31	248	279
1983	21	82	103
1984	9	65	74
1985	242	75	317
1986	83	70	153
1987	73	56	129
1988	0	34	34

(Source: Office of Management and Budget; Data Printed in the Federal Register)

E. IMPOUNDMENT OF THE ELECTION YEAR BUDGET

Another way the President's budget can be altered appears to happen as a consequence of presidential elections. It is possible the President could expand the

budget for the first fiscal year of the new term, in an effort to build political support through proposed spending increases, with the knowledge he can make impoundment recommendations to bring his budget back in line with his own priorities after re-election. Table 7 shows the President's budget, in terms of federal outlays, both current and constant dollars, along with the percent change in constant dollars, and the number of impoundment recommendations made for each year. Current and constant outlay figures were gathered from the Budget of the United States Government, Historical Tables, FY 1989. Percent change was calculated by dividing constant dollars for a given year by that value for the previous year. Impoundment recommendations were taken from the total column in Table 6.

President Carter submitted his 1981 federal budget, \$726.5 billion in constant dollars, or four percent growth over the previous year. This growth level was the fourth highest of the study period. President Reagan submitted his 1985 budget, \$848 billion in constant dollars, or 7.6 percent growth over the previous year. The rate of growth for 1985 was the highest during the study period. Additionally, Reagan made 317 impoundment recommendations during fiscal year 1985, the most either President made. President Carter was not re-elected in 1980. Therefore, there is no data to support or reject the idea that he would have impounded a significant portion of the four percent in real growth his 1981 budget submission included. The data supports the idea that President Reagan inflated the 1985 budget submission with the largest percent change of the study period and then recommended 317 impoundments totalling \$17.2 billion after his re-election.

TABLE 7

TOTAL OUTLAYS, ALL FEDERAL PROGRAMS, WITH PERCENT CHANGE
OF CONSTANT DOLLARS

<u>YEAR</u>	<u>CURRENT OUTLAYS</u>	<u>CONSTANT OUTLAYS</u>	<u>PERCENT CHANGE</u>	<u>IMPOUNDMENT RECOMMENDATIONS</u>
1976	371.8	609.8	-	72
1977	409.2	622.6	+2.1%	84
1978	458.7	652.2	+4.8%	86
1979	503.5	660.2	+1.2%	76
1980	590.9	699.1	+5.9%	132
1981	678.2	726.5	+4.0%	293
1982	745.7	745.7	+2.6%	279
1983	808.3	774.6	+3.9%	103
1984	851.8	787.7	+1.7%	74
1985	946.3	848.0	+7.6%	317
1986	990.3	865.7	+2.1%	153
1987	1004.6	859.3	-0.7%	129
1988 ¹	1055.9	869.8	+1.2%	34

¹Estimate

(Source: Budget of the United States Government, Historical Tables, FY 1989)

Another use of presidential impoundment control involves increasing policy impoundment recommendations to maintain spending priorities when faced with a reduction of partisan political support in Congress. The next section will examine the extent this changing cycle of partisan political support affects the use of impoundment.

F. PARTISAN POLITICS AND POLICY IMPOUNDMENTS

When the President's party loses influence by a reduction in the number of seats held in Congress, he could increase the use of policy impoundments in an attempt to maintain budget priorities. Table 8 shows the partisan political relationship between the President and Congress from 1977 through 1988 [Ref. 22]. Percentages are calculated by dividing each party representation value by the sum of the values for that House of Congress for that time period. These relationships are best understood when examined in two year increments corresponding to the Congress in session.

Comparison of these shifts in political support with changes in policy impoundment levels will indicate the extent the President uses policy impoundments to maintain his budget priorities. Figure 3 shows the changes in partisan political support and the policy impoundment recommendations, in dollar terms, of national defense programs. Both values are shown as a percentage. Percentages for partisan political support are calculated by adding percent support of the President's political party in the Senate and the House of Representatives and dividing by two. Percentages for policy impoundment recommendations of defense programs are calculated by dividing the dollar value of policy impoundments by the total value of all impoundments for that two year period, taken from Table 3. If the trends move in opposite directions, up or down, the indication is that the President increases policy impoundments when partisan support in Congress is reduced.

When partisan political support for President Carter decreased in 1979, policy impoundment recommendations of national defense programs increased. Partisan support for President Reagan increased in 1985 and policy impoundments of

national defense programs were reduced. When partisan political support went down in 1987, policy impoundment recommendations of these programs increased.

TABLE 8

PARTISAN POLITICAL SUPPORT IN CONGRESS FOR THE PRESIDENT

<u>Period/ Congress</u>	<u>Party of the President</u>	<u>Senate</u>	<u>House</u>
1977-78 95th	Democrat	D 61 (61%) R 38 (38%) I 1 (01%)	D 292 (67%) R 134 (33%)
1979-80 96th	Democrat	D 58 (58%) R 41 (41%) I 1 (01%)	D 277(64%) R 158 (36%)
1981-82 97th	Republican	D 46 (46%) R 53 (53%) I 1 (01%)	D 242 (55%) R 190 (44%) V 3 (01%)
1983-84 98th	Republican	D 46 (46%) R 54 (54%)	D 269 (62%) R 166 (38%)
1985-86 99th	Republican	D 47 (47%) R 53 (53%)	D 253 (58%) R 182 (42%)
1987-88 100th	Republican R 46 (46%)	D 54 (54%) R 177 (41%)	D 258 (59%)

D-Democrat

R-Republican

I-Independant

V-Vacant

PARTISAN SUPPORT VS DOD POLICY IMPOUNDMENTS

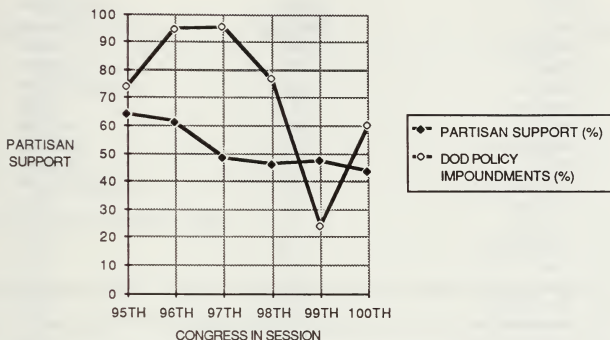


Figure 3. Changes in Partisan Political Support and its affect on National Defense Policy Impoundments

The data supports the concept that the President is likely to use policy impoundments to maintain budget priorities when faced with reduced partisan political support in Congress. If the President will use policy impoundments to maintain spending priorities of national defense programs when faced with reduced political support in Congress, he could also use impoundment to alter regional defense spending.

G. IMPOUNDMENT AND REGIONAL DEFENSE SPENDING

Defense spending is regional in nature. More than 50 percent of the defense spending that is traceable to the states occurs in just seven states. Table 9 shows the state ranking of defense spending in billions of dollars and as a percentage of total

TABLE 9

STATE RANKING OF DEFENSE SPENDING (IN \$BILLIONS)

<u>State</u>	<u>Defense Spending</u>	<u>Defense Percentage</u>
1. California	20.1	11.9%
2. Texas	10.3	10.0%
3. Virginia	8.0	28.9%
4. New York	6.7	5.5%
5. Missouri	4.9	16.7%
6. Connecticut	4.6	18.3%
7. Florida	4.5	8.6%
8. Massachusetts	4.0	10.0%
9. Louisiana	3.4	12.9%
10. Maryland	3.3	14.0%
11. Washington	3.2	12.2%
12. Ohio	3.2	4.5%
13. Pennsylvania	3.2	4.3%
14. New Jersey	2.9	5.7%
15. Georgia	2.8	9.2%
16. North Carolina	2.5	8.1%
17. Illinois	2.2	2.8%
18. Indiana	2.0	5.9%
19. Michigan	2.0	3.3%
20. Mississippi	1.7	16.7%
21. South Carolina	1.7	11.4%
22. Alabama	1.7	9.5%
23. Arizona	1.6	10.6%
24. Kansas	1.5	10.6%
25. Oklahoma	1.5	8.0%
26. Colorado	1.4	6.9%
27. Kentucky	1.1	6.3%
28. Minnesota	1.1	4.2%
29. New Mexico	0.8	13.3%
30. Utah	0.8	10.5%
31. Tennessee	0.8	3.4%
32. Wisconsin	0.7	2.4%
33. Maine	0.6	11.3%
34. New Hampshire	0.6	10.9%
35. Nebraska	0.5	6.0%
36. Delaware	0.4	9.3%
37. Rhode Island	0.4	7.3%

TABLE 9 (CON'T)

38. Arkansas	0.4	4.0%
39. North Dakota	0.3	8.8%
40. Nevada	0.3	4.8%
41. Iowa	0.3	1.9%
42. Vermont	0.2	7.7%
43. South Dakota	0.2	7.4%
44. Idaho	0.2	4.5%
45. Oregon	0.2	1.3%
46. Montana	0.1	2.7%
47. Wyoming	0.1	2.6%
48. West Virginia	0.1	1.0%

(Source: James, December 1987)

corporate income [Ref. 23:p. 25]. The value for defense spending includes military and civilian payrolls and defense contracts for goods and services greater than ten thousand dollars. California, the state with the largest amount of defense spending, receives 17.5 percent of the total. The second largest recipient of defense spending is Texas, at just under nine percent. Virginia (7%), New York (6%), and Missouri, Connecticut, and Florida, each with four percent, account for the remaining five of the first seven states.

National defense spending is separated into seven subfunctions during the budgeting and appropriations process. These subfunctions are:

1. Procurement. This includes acquisition of weapons, ammunition, parts, equipment, and modification of existing equipment.
2. Operations and Maintenance (O&M). This includes costs of operating and maintaining the armed forces.
3. Military Personnel (MILPERS). This includes the cost of providing armed forces personnel.
4. Research, Development, Test, and Evaluation (RDT&E). This includes the cost of modernization through development and testing.

5. Department of Defense, Civil. This includes all the expenses of projects carried out by the Corps of Engineers.
6. Military Construction (MILCON). This includes the costs of construction and maintenance of military real property.
7. Department of Energy, Atomic Energy Defense Activities (AEDA). This includes costs associated with defense atomic energy and weapons development programs.

Presidential impoundment of national defense programs is categorized into these seven subfunctions to determine if impoundments, like defense spending, are regional in nature. Table 10 shows the average annual appropriation of each of the seven subfunctions along with the distribution of defense impoundment recommendations across the subfunctions [Ref. 20:p. 96].

The average annual appropriation by subfunction is calculated by adding the appropriated budget authority for each subfunction from 1977 through 1988 and dividing by 12. The purpose of this is to show the relative size of the subfunction in dollar terms. Each national defense impoundment was assigned to a subfunction in the Special Message provided by the Office of Management and Budget.

Three of the subfunctions, procurement, milcon, and DoD-civil, combine to include 116 or 88 percent of national defense impoundment recommendations. Funding of these three subfunctions is also most traceable to individual states or regions. Therefore, it would appear that presidential impoundments were likely to be regionally applied. The Department of Defense civil subfunction was subjected to 52 impoundment recommendations, none of which could be assigned specifically to a region. Similarly, the military construction subfunction was subjected to 42 impoundments, but owing to the diverse nature of construction programs, none could be assigned to a region. In the procurement subfunction, 10 of 22 impoundment recommendations were regional. Table 11 shows the states against

which regional impoundment recommendations were made, the number of impoundments, and the total dollar value of those impoundments.

TABLE 10
NATIONAL DEFENSE BUDGET BY SUBFUNCTION AND ASSOCIATED
IMPOUNDMENTS

<u>Subfunction</u>	<u>Average Annual Appropriation by Subfunction (1977-1988)¹</u>	<u>Number of Impoundment Recommendations (FY 1977-1988)</u>
PROCUREMENT	\$62,815	22
O&M	\$59,969	2
MILPERS	\$55,359	1
RDT&E	\$22,618	2
DOD, CIVIL	\$21,655	52
MILCON ²	\$6,185	42
DOE, AEDA ³	\$5,064	11

¹Values for 1988 are estimates.

²MILCON includes Family Housing, DoD appropriations.

³Department of Energy, Atomic Energy Defense Activities.

Both of the California impoundments involve the Aircraft Procurement, Air Force account, and the B-1 bomber aircraft production cancellation by President Carter. The Virginia impoundment involves the Shipbuilding and Conversion, Navy account, and cancellation of advanced procurement of a nuclear powered aircraft carrier and modernization of a nuclear powered guided missile cruiser.

TABLE 11

REGIONAL IMPOUNDMENTS (ROUNDED TO THE NEAREST \$MILLIONS)

<u>State</u>	<u>Number of Impoundments</u>	<u>Total Value</u>
California	2	924.0
Virginia	1	721.0
Washington	5	256.3
New York	1	116.0
Texas	1	65.7

(Source: The Office of Management and Budget, Printed in the Federal Register)

Four of the Washington impoundments involve the Missile Procurement, Air Force account, with two each concerning the Minuteman III missile procurement program and the short range attack missile program for the B-1 bomber aircraft. The Fifth Washington impoundment involves the Shipbuilding and Conversion, Navy account, and the PHM-1 class hydrofoil production program. The New York impoundment involves the Shipbuilding and Conversion, Navy account, and modernization of the FFG-7 class guided missile frigate fire control systems. The Texas impoundment involves the Aircraft Procurement, Air Force account, and reduction of the F-16 fighter aircraft production program.

These ten impoundment recommendations account for less than 17 percent, in dollar terms, of national defense program impoundments, and less than eight percent numerically. The data suggests that while defense spending is regional in nature, impoundment recommendations do not appear regional.

The study involved analysis of two hypotheses:

1. (H1) Impoundment has been used primarily as a tool of routine managerial efficiency.
2. (H2) Impoundment has been used primarily as a tool to alter congressional policymaking.

The first hypothesis received little support from the study. If impoundment had been used primarily as a tool of managerial efficiency, it is expected a higher percentage of the dollar value of impoundments would have been for this purpose. Only eight percent of the dollar value of impoundments were efficiency in nature. The study supports the hypothesis that impoundments have been used primarily for purposes of policymaking. These impoundments represent 48 percent of the total reviewed, and 92 percent of the total in dollar terms.

Defense analysts at the Office of Management (OMB) and Budget and the Congressional Budget Office (CBO) were asked to comment on the findings in this thesis. A defense analyst in the Office of Budget Review at OMB agreed that rescissions and deferrals were made for reasons of policy as well as for efficiency. During the discussion of the trends evaluated in this thesis, the analyst indicated that each rescission or deferral is assessed on a case by case basis, and that the trends developed are not correlative. [Ref. 24] A defense analyst in the Budget Analysis branch at CBO indicated that rescissions and deferrals were not evaluated in terms of purpose or reason by his organization. He indicated that impoundments were only evaluated in terms of proposed reductions in budget authority and the consequences of those reductions on programs. [Ref. 25]

It should be considered that these comments are the opinions of the analysts and are not necessarily the policy of the agencies they represent.

IV. CONCLUSIONS

During the past 12 years the President has used policy impoundment far more than Congress anticipated when the Impoundment Control Act was passed in 1974. Results of the analysis from the preceding chapter show that the President used impoundment of national defense programs for policy reasons 48 percent of the time from 1977 through 1988. The dollar value of those policy impoundments exceeded efficiency impoundments by \$7.7 billion and represented 81 percent of impoundment recommendations of these programs alone.

Results of the examination of Department of Housing and Urban Development impoundments, used to provide constituency contrast, support this finding. Policy impoundments represented 67 percent of the total for HUD programs. The dollar value of these policy impoundments exceeded efficiency impoundments by \$26.3 billion and represented 95 percent, in dollar terms, of impoundment recommendations for these programs.

This major use of policy impoundment is significant because one of the principle purposes of the Impoundment Control Act is to restrict the primary use of presidential impoundment to matters of managerial efficiency. Yet impoundment recommendations appear to be more for purposes of policymaking than efficiency.

It is possible to evaluate the extent to which the President uses impoundment for more specific reasons than simply policy versus efficiency. One such reason is that the new President is likely to use impoundment to alter his predecessor's budget in an effort to establish his own set of spending priorities.

The period of time between the new President's assumption of office and the time required to secure supplemental appropriations legislation to accomplish the

establishment of new spending priorities can be quite lengthy. Perhaps the Congress is unwilling to alter the previously approved appropriations to the extent the new President deems necessary. Impoundment is one method to alter the federal budget, in a timely manner, to establish new spending priorities.

Each time a new President has been elected, the number of impoundment recommendations made during the first year in office has exceeded those made by his predecessor the previous year. President Carter made 14.1 percent more impoundment recommendations than President Ford had during fiscal year 1976. President Reagan made 221 percent more impoundment recommendations in fiscal year 1981 than President Carter had in 1980. These increases demonstrate the likelihood that the President will use impoundments to alter the predecessor's budget when there are significant differences in spending priorities.

Another way impoundment is used as a federal budget altering technique happens as a consequence of budget manipulation at presidential election time. The President will inflate the federal budget submission for the first year of the new term in an effort to gain constituency support from the various special interests this increased spending will effect. Once the President has been re-elected he increases the use of impoundment in an attempt to adjust the federal budget to a level more in keeping with his spending priorities. President Reagan inflated the 1985 federal budget submission with the largest percent change of his administration and then recommended an unprecedented 317 impoundments totalling \$17.2 billion after his re-election.

This is an especially effective technique because partisan political support for the re-elected President will likely increase in Congress due to the phenomena

where legislators ride the President's "coattails" into office. This increases the chance for successful impoundment of the inflated budget.

The issue of changing partisan political support can influence the use of presidential impoundment in another way. When the President's party loses influence by a reduction in the number of seats held in Congress, he increases the use of policy impoundments to maintain established budget priorities. When partisan political support for President Carter decreased in 1979, policy impoundment recommendations of national defense programs increased, in dollar terms, from 74 percent to 95 percent. Partisan support for President Reagan increased in 1985 and policy impoundments for national defense programs decreased from 78 percent to 24 percent. When partisan political support went down in 1987, policy impoundment recommendations for these programs increased from 24 percent to 60 percent.

The President will use policy impoundments to maintain spending priorities of national defense programs when faced with reduced partisan political support in Congress. Will he also use impoundment to alter regional defense spending?

Defense spending is regional. More than 50 percent of defense spending that is traceable to the states occurs in just seven states. These include: California (17.5%), Texas (8.9%), Virginia (7.0%), New York (5.8%), Missouri (4.3%), Connecticut (4.0%), and Florida (3.9%).

The President has made 132 impoundment recommendations of national defense programs during the period from fiscal year 1977 through 1988. Only ten of these 132 impoundments can be classified as regional. All ten involve policy impoundments of military procurement programs, and represent less than 17 percent of the dollar value of all defense impoundments during this period.

Therefore, while defense spending is regional, impoundment of defense spending does not appear regional.

The final analysis in this thesis reviews President Reagan's use of impoundment of national defense programs. He has clearly been a pro-defense President with respect to the defense budget, having increased defense spending in constant dollar terms by 49 percent since 1980. Some may be surprised to learn that he has impounded defense appropriations at all. In his eight years as President he made 89 impoundment recommendations of national defense programs with a total dollar value of \$7.4 billion. He has not attempted to cancel much defense spending; rescissions recommended during his two terms total \$336.5 million. Most of his defense impoundment recommendations have been deferrals (totalling \$7.1 billion) usually made in an attempt to stretch out spending for reasons of efficiency. The major portion of defense impoundment recommendations made by President Reagan occurred in his first term, when the defense budget was growing at an enormous rate. His use of impoundment supports the idea that impoundment is a tool used by the President to manage his federal budget priorities. The national defense budget appears to have been at or near the top of his priority list of spending priorities.

In summary, Congress passed the Impoundment Control Act in an effort to limit presidential policy impoundments. The Presidents have not succumbed to congressional pressure to limit impoundment to matters of managerial efficiency. Rather, they continue to make frequent policy impoundment recommendations in an effort to maintain executive spending priorities.

The President will use impoundment to alter his predecessor's budget to establish different spending priorities. He will inflate the federal budget submission

for the first year of the new term to gain special-interest support, then impound that budget at increased levels upon re-election. When partisan political support in Congress is reduced, he will increase policy impoundments to maintain spending priorities.

Defense spending is regional in nature. Impoundment recommendations of national defense programs do not appear regional.

President Reagan made impoundment recommendations of national defense programs for many of the same reasons as his predecessors. He did not cancel much defense spending because defense was a top priority in his administration.

Areas for possible future study include:

1. An analysis of the effectiveness of presidential impoundments. This could include the relative success or failure of the individual impoundment recommendations. Additionally, the effect of impoundment on the size of future appropriations for impounded programs could be determined.
2. The extent to which the President has recommended impoundment of congressional add-ons and plus-ups of the national defense budget. An add-on is an appropriation that was not requested in the President's budget submission. A plus-up refers to an increase to a department or agency appropriation above the level requested in the President's budget. This would test one of the ways impoundment resembles the proposed line item veto.

LIST OF REFERENCES

1. Fisher, L., "Impoundment of Funds: Uses and Abuses," *Buffalo Law Review*, v. 23, Fall 1973.
2. Brundage, P. F., *The Bureau of the Budget*, Praeger Publishers, 1970.
3. Natchez, P. B., and Bupp, I.C., "Policy and Priority in the Budgetary Process," *The American Political Science Review*, v. 67, September 1973.
4. Wildavsky, A., *The New Politics of the Budgetary Process*, Scott, Foresman and Company, 1988.
5. *Antideficiency Act*, as amended in 1950, Act of 6 September 1950, Chapter 896, 1211, 64 stat. 765.
6. Fisher, L., *Presidential Spending Power*, Princeton University Press, 1975.
7. Pfiffner, J. P., *The President, the Budget, and Congress: Impoundment and the 1974 Budget Act*, Westview Press, 1979.
8. Schlesinger, A. M. Jr., *The Imperial Presidency*, Houghton Mifflin Company, 1973.
9. Shuman, H. E., *Politics and the Budget: The Struggle Between the President and the Congress*, 2nd ed., Prentice Hall, 1988.
10. Joint Hearings Before the Ad Hoc Subcommittee on Impoundment of Funds of the Committee on Government Operations and the Subcommittee on Separation of Powers of the Committee on the Judiciary--United States Senate, 93rd Congress, First Session, *Impoundment of Appropriated Funds*, Government Printing Office, Washington, DC, 1973.
11. Fisher, L., "Ten Years of the Budget Act: Still Searching for Controls," *Public Budgeting & Finance*, v. 5, Autumn 1985.
12. Schick, A., *Congress and Money*, The Urban Institute, 1980.
13. Gosling, J. J., "Wisconsin Item Veto Lessons," *Public Administration Review*, v. 46, July/August 1986.
14. Executive Office of the President, Office of Management and Budget, Special Message Printed in the *Federal Register*, v. 46, no. 210, Government Printing Office, Washington, DC, 1981.

15. Executive Office of the President, Office of Management and Budget, Special Message Printed in the *Federal Register*, v. 42, no. 15, Government Printing Office, Washington, DC, 1977.
16. Executive Office of the President, Office of Management and Budget, Special Message Printed in the *Federal Register*, v. 45, no. 80, Government Printing Office, Washington, DC, 1980.
17. Executive Office of the President, Office of Management and Budget, Special Message Printed in the *Federal Register*, v. 47, no. 238, Government Printing Office, Washington, DC, 1982.
18. Fisher, L., "Effect of the Budget Act of 1974 on Agency Operations," Penner, R., ed., *The Congressional Budget Process After Five Years*, American Enterprise Institute, 1981.
19. United States Congress, Senate, *Congressional Record*, 93rd Congress, 2nd Session, 21 June 1974, Government Printing Office, Washington, DC, 1974.
20. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government, FY 1989, Historical Tables*, Government Printing Office, Washington, DC, 1988.
21. Executive Office of the President, Council of Economic Advisors, *Economic Report of the President*, Government Printing Office, Washington, DC, 1988.
22. United States Congress, Joint Committee on Printing, *Congressional Directory*, Government Printing Office, Washington, DC, 1977-1987.
23. James, C. E., *Department of Defense Expenditure Impact on State Economic Growth*, Master's Thesis, Naval Postgraduate School, Monterey, California, December 1987.
24. Telephone Conversation between anonymous, Office of Management and Budget, and the author, 17 November 1988.
25. Telephone Conversation between anonymous, Congressional Budget Office, and the author, 15 November 1988.

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